

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**TIMOTHY NAPOLEON, II and
LA DERIKA L. JONES,**

v.

**DANNY HERMAN TRUCKING INC. and
RAMON E. CASIANO**

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3:22-cv-1896

JURY

DEFENDANTS' NOTICE OF REMOVAL

COME NOW, Defendants Danny Herman Trucking Inc. and Ramon E. Casiano, and through this Notice of Removal hereby remove Cause No. CC-22-03246-D filed in the County Court at Law No. 4 of Dallas County, Texas, and in support thereof state as follows:

I.

This civil action is a matter over which this Court has original jurisdiction by virtue of 28 U.S.C. §1332 and is one which may be removed to this Court by Defendants under the provisions of 28 U.S.C. §1441(b), in that it is a civil action among diverse parties who are citizens of different states, and plaintiffs' claims (when considered individually) involve amounts in controversy that exceed \$75,000.00, exclusive of costs and interest. No previous application has been made for the relief requested herein.

II.

This case arises out of injuries allegedly sustained by Plaintiffs Timothy Napoleon, II and La Derika L. Jones as the result of an automobile collision that occurred on June 18, 2020, in Dallas County, Texas. The incident involved vehicles driven by Plaintiff Napoleon and Defendant Casiano. At the time of the accident, Casiano is alleged to have been operating under the authority of Danny Herman Trucking, Inc.

III.

This action was originally filed on June 21, 2022 in County Court at Law No. 4 of Dallas County, Texas.¹ Defendant Danny Herman Trucking, Inc. was served on July 29, 2022, when citation and a copy of Plaintiffs' Original Petition was served on Danny Herman Trucking, Inc.'s registered agent.² Defendant Casiano was also served on July 29, 2022 through service on the Chairman of the Texas Transportation Commission.³ Both Defendants answered on August 22, 2022.⁴ Aside from setting this matter for a DWOP hearing on October 24, 2022, the state court has not taken any action.⁵

IV.

Plaintiffs' Original Petition states that Plaintiffs collectively seek to recover monetary relief (personal injury damages) in excess of \$250,000 but less than \$1 million, plus interest and costs.⁶ Plaintiffs' Original Petition also states that Plaintiffs collectively seek to recover damages in excess of \$1 million.⁷ Prior to filing suit, Plaintiffs demanded \$400,000 in damages for Plaintiff Napoleon and "policy limits" for Plaintiff Jones. As such, the amount in controversy for each plaintiff independently exceeds the jurisdictional amount required for removal based on diversity pursuant to 28 U.S.C. §§1332 and 1441. Even if the "policy limits" demand for Plaintiff Jones was intended to state a demand for less than \$75,000, the Court has supplemental jurisdiction over her claims.⁸

V.

At and since the time of filing this action, Plaintiffs Napoleon and Jones were and are citizens of, and domiciled in, the state of Texas.⁹ At and since the time of filing this action, Defendant Danny Herman

¹ Exhibit 3 – State Court Docket Sheet.

² Exhibit 7 - Return of Service (DHT).

³ Exhibit 8 – Return of Service (Casiano).

⁴ Exhibit 9 – Defendants' Original Answer.

⁵ See Exhibit 3.

⁶ Exhibit 5 – Plaintiffs' Original Petition at ¶1.

⁷ *Id.* at ¶8.

⁸ See *Exxon Mobil Corp. v. Allapattah Servs.*, 545 U.S. 546, 549 (when other elements of jurisdiction are present and at least one named plaintiff satisfies the amount-in-controversy requirement, 28 U.S.C. §1367 authorizes supplemental jurisdiction over the claims of the other plaintiffs).

⁹ Exhibit 5 at ¶¶2, 3.

Trucking, Inc. is incorporated in California and maintains its principal place of business in Tennessee, and therefore was and is a citizen of California and Tennessee both at the time of filing of this action and at the time of removal. At and since the time of filing this action, Defendant Ramon Casiano was and is a citizen of, and domiciled in, the state of Arizona. Accordingly, no plaintiff is a citizen of the same state as any defendant. As such, there is complete diversity between Plaintiffs and Defendants, as is required by 28 U.S.C. §1332.

VI.

In accordance with 28 U.S.C. §1446(b)(1), this Notice of Removal is timely because it is filed within 30 days of service on Defendants.¹⁰ As there are no other defendants, consent to removal by other parties is not required.

VII.

County Court at Law No. 4 of Dallas County, Texas, is located within the Dallas Division of the Northern District of Texas. 28 U.S.C. §124. Therefore, venue is proper in accordance with 28 U.S.C. §1441(a) because it is the “district and division embracing the place where such action is pending.”

VIII.

Pursuant to 28 U.S.C. §1446(a) and Local Rule 81.1, the following are attached hereto as Exhibits:

- Exhibit 1 – Federal Civil Cover Sheet;
- Exhibit 2 – Supplemental Case Information Sheet;
- Exhibit 3 – State Court Docket Sheet;
- Exhibit 4 – Index of State Court Filings;
- Exhibit 5 – Plaintiffs’ Original Petition;
- Exhibit 6 – DWOP Notice;

¹⁰ See Exhibits 7 (Return of Service – DHT) and 8 (Return of Service – Casiano).

Exhibit 7 – Citation & Return of Service (DHT);

Exhibit 8 – Citation & Return of Service (Casiano); and

Exhibit 9 – Defendants' Original Answer.

Defendants' Certificate of Interested Persons shall be filed separately as required by Fed. R. Civ. P. 7.1 and LR 81.1.

IX.

Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal will be promptly filed with the Clerk of County Court at Law No. 4, Dallas County, Texas, and served on counsel for Plaintiff.

WHEREFORE, Defendants pray that the action now pending against them in the County Court at Law No. 4 of Dallas County, Texas, bearing Cause No. CC-22-03246-D, be removed to this Honorable Court for a trial by jury on all issues of fact.

Respectfully submitted,

By: /s/ Jeffrey R. Ross
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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I do hereby certify that on August 26, 2022, a true and correct copy of the above and foregoing document has been forwarded electronically to Plaintiff's counsel of record through CM/ECF and/or the state court's electronic filing system.

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